

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 19, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 31-9-2-28.5 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE UPON PASSAGE]: **Sec. 28.5. "Covenant marriage",**
- 6 **for purposes of IC 31-11-4, IC 31-11-4.5, and IC 31-15 means a**
- 7 **marriage entered into by one (1) male and one (1) female who:**
- 8 **(1) understand and agree that the marriage between them is**
- 9 **a lifelong relationship;**
- 10 **(2) have received counseling emphasizing the nature,**
- 11 **purposes, and responsibilities of marriage;**
- 12 **(3) understand and agree that only when there has been a**
- 13 **complete and total breach of the marital covenant may the**
- 14 **nonbreaching party seek a dissolution of the marriage; and**
- 15 **(4) declare their intent to enter into a covenant marriage on:**
- 16 **(A) their application for a marriage license under**
- 17 **IC 31-11-4-4; or**
- 18 **(B) a declaration of intent to designate their existing**
- 19 **marriage as a covenant marriage under IC 31-11-4.5-2.**
- 20 SECTION 2. IC 31-11-4-4 IS AMENDED TO READ AS
- 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An
- 22 application for a marriage license must be written and verified. The
- 23 application must contain the following information concerning each of
- 24 the applicants:
- 25 (1) Full name.
- 26 (2) Birthplace.

(3) Residence.

(4) Age.

(5) Names of dependent children.

(6) Full name, including the maiden name of a mother, last known residence, and, if known, the place of birth of:

(A) the birth parents of the applicant if the applicant is not adopted; or

(B) the adoptive parents of the applicant if the applicant is adopted.

(7) A statement of facts necessary to determine whether any legal impediment to the proposed marriage exists.

(8) Except as provided in subsection (e), an acknowledgment that both applicants must sign, affirming that the applicants have received the information described in section 5 of this chapter, including a list of test sites for the virus that causes AIDS (acquired immune deficiency syndrome). The acknowledgment required by this subdivision must be in the following form:

ACKNOWLEDGMENT

I acknowledge that I have received information regarding dangerous communicable diseases that are sexually transmitted and a list of test sites for the virus that causes AIDS (acquired immune deficiency syndrome).

Signature of Applicant

Date

Signature of Applicant

Date

(9) If the parties intend to enter into a covenant marriage:

(A) a statement that both applicants must sign; and

(B) the documents required under IC 31-11-4.5-1.

The statement under clause (A) for a covenant marriage must be in the following form:

COVENANT MARRIAGE

We, _____ (name of intended husband) and _____ (name of intended wife), do hereby declare our intent to contract a covenant marriage and, accordingly, have executed a declaration of intent and filed it with this application for a marriage license.

Signature of Intended Husband

Date

Signature of Intended Wife

Date

(b) The clerk of the circuit court shall record the application, including the license and certificate of marriage, in a book provided for that purpose. This book is a public record.

(c) The state department of health shall develop uniform forms for applications for marriage licenses, **which must indicate whether the individuals applying for the marriage license are declaring an intent to enter into a covenant marriage.** The state department of health shall furnish these forms to the circuit court clerks. The state department of health may periodically revise these forms.

(d) The state department of health shall require that the record of marriage form developed under subsection (c) must include each applicant's Social Security number. Any Social Security numbers collected on the record of marriage form shall be kept confidential and used only to carry out the purposes of the Title IV-D program. A person who knowingly or intentionally violates confidentiality regarding an applicant's Social Security ~~numbers~~ **number** as described in this subsection commits a Class A infraction.

(e) Notwithstanding subsection (a), a person who objects on religious grounds is not required to:

(1) verify the application under subsection (a) by oath or affirmation; or

(2) sign the acknowledgment described in subsection (a)(8).

However, before the clerk of the circuit court may issue a marriage license to a member of the Old Amish Mennonite church, the bishop of that member must sign a statement that the information in the application is true.

(f) If a person objects on religious grounds to:

(1) verifying the application under subsection (a) by oath or affirmation; or

(2) signing the acknowledgment described in subsection (a)(8);

the clerk of the circuit court shall indicate that fact on the application for a marriage license.

SECTION 3. IC 31-11-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. Each marriage license must have two (2) certificates attached to the license. The state department of health shall prescribe a uniform ~~form~~ **forms** for these certificates. One (1) certificate must be marked "Original", and one (1) certificate must be marked "Duplicate". Each certificate must contain the following:

(1) For individuals not declaring their marriage a covenant marriage:

MARRIAGE CERTIFICATE

I _____ (name) certify that on _____ (date) at _____ in _____ County, Indiana, _____ of _____ County, _____ (state) and _____ of _____ County, _____ (state) were married by me as authorized under a marriage license that was issued by the Clerk of the Circuit Court of _____ County, Indiana, dated _____.

Signed

(OFFICIAL DESIGNATION)

(2) For individuals declaring their marriage a covenant marriage:

MARRIAGE CERTIFICATE

I _____ (name) certify that on _____ (date) at _____ in _____ County, Indiana, _____ of _____ County, _____ (state) and _____ of _____ County, _____ (state) were married by me into a covenant marriage as authorized under a marriage license that was issued by the Clerk of the Circuit Court of _____ County, Indiana, dated _____.

Signed

(OFFICIAL DESIGNATION)

SECTION 4. IC 31-11-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The clerk of the circuit court shall forward marriage records to the state department of health on at least a monthly basis.

(b) The state department of health shall:

(1) prescribe:

(A) a form for recording marriages **that provides a manner for the clerk of the circuit court to indicate whether the marriage was declared a covenant marriage; and**

(B) a form for recording declarations of a covenant marriage **filed under IC 31-11-4.5-2;**

(2) accept a court order under section 17 of this chapter (or IC 31-7-3-15.5 before its repeal) in place of a marriage certificate;

(3) prepare an annual index of all marriages solemnized in Indiana **that:**

(A) **distinguishes between a marriage designated as a covenant marriage and a marriage not designated as a covenant marriage; and**

(B) **indicates declarations of a covenant marriage filed under IC 31-11-4.5-2;**

and furnish at least one (1) index to the Indiana state library; ~~and~~

(4) **furnish to the Indiana state library** reports on records of marriage published by the state department of health ~~to the Indiana state library that:~~

(A) **distinguish between a marriage designated as a covenant marriage and a marriage not designated as a covenant marriage; and**

(B) **indicate declarations of a covenant marriage filed under IC 31-11-4.5-2; and**

(5) **develop an informational pamphlet entitled "Covenant Marriage Law", which outlines in sufficient detail the consequences of entering into a covenant marriage. The state department of health shall make this informational pamphlet available upon request to any priest, minister, rabbi, clerk of the Religious Society of Friends, clergyman of any religious sect, or marriage counselor.**

SECTION 5. IC 31-11-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4.5. Covenant Marriage

Sec. 1. (a) Individuals applying for a marriage license under IC 31-11-4 may, at the time of filing an application for a marriage license, file a declaration of intent to enter into a covenant marriage, consisting of the following documents:

(1) A recitation to the following effect, with the signatures of both parties witnessed by a notary public:

A COVENANT MARRIAGE

"We do solemnly declare that marriage is a covenant

1 between a man and a woman who agree to live together as
 2 husband and wife for so long as they both may live. We have
 3 chosen each other carefully and disclosed to one another
 4 everything that could adversely affect the decision to enter
 5 into this marriage. We have received premarital counseling
 6 on the nature, purposes, and responsibilities of marriage. We
 7 have read the "Covenant Marriage Law" informational
 8 pamphlet, and we understand that a covenant marriage is for
 9 life. If we experience marital difficulties, we commit
 10 ourselves to take all reasonable efforts to preserve our
 11 marriage, including marital counseling.

12 With full knowledge of what this commitment means, we do
 13 hereby declare that our marriage will be bound by Indiana
 14 law on covenant marriages, and we promise to love, honor,
 15 and care for one another as husband and wife for the rest of
 16 our lives."

17 (2) An affidavit by the parties that they have received
 18 premarital counseling from a priest, minister, rabbi, clerk of
 19 the Religious Society of Friends, clergyman of any religious
 20 sect, or marriage counselor that included a discussion of the
 21 seriousness of covenant marriage, communication of the fact
 22 that a covenant marriage is a commitment for life, a discussion
 23 of the obligation to seek marital counseling in times of marital
 24 difficulties, and a discussion of the exclusive grounds for
 25 obtaining a judgment of legal separation or for legally
 26 dissolving a covenant marriage.

27 (3) A notarized attestation, signed by the counselor and
 28 attached to or included in the parties' affidavit, confirming that
 29 the parties were counseled as to the nature and purpose of the
 30 marriage and the grounds for termination of the marriage and
 31 acknowledging that the counselor provided to the parties the
 32 informational pamphlet "Covenant Marriage Law" developed
 33 by the state department of health.

34 (4) If one (1) or both of the parties are minors, the consent
 35 required by IC 31-11-2.

36 (b) The recitation required under subsection (a)(1) shall be
 37 prepared in duplicate originals, one (1) of which shall be retained
 38 by the parties and the other of which shall be filed with the clerk of
 39 the circuit court and attached to the duplicate marriage certificate
 40 when filed with the clerk of the circuit court.

41 Sec. 2. (a) A married couple may execute a declaration of intent
 42 to designate their marriage as a covenant marriage to be governed
 43 by the laws governing covenant marriages. The declaration consists
 44 of the following documents:

45 (1) A recitation to the following effect, with the signatures of
 46 both parties witnessed by a notary public:

47 **A COVENANT MARRIAGE**

48 "We do solemnly declare that marriage is a covenant
 49 between a man and a woman who agree to live together as
 50 husband and wife for so long as they both may live. We

1 understand the nature, purposes, and responsibilities of
 2 marriage. We have read the "Covenant Marriage Law"
 3 informational pamphlet, and we understand that a covenant
 4 marriage is for life. If we experience marital difficulties, we
 5 commit ourselves to take all reasonable efforts to preserve
 6 our marriage, including marital counseling.

7 With full knowledge of what this commitment means, we do
 8 hereby declare that our marriage will be bound by Indiana
 9 law on covenant marriages, and we renew our promise to
 10 love, honor, and care for one another as husband and wife
 11 for the rest of our lives."

12 (2) An affidavit by the parties that they have discussed their
 13 intent to designate their marriage as a covenant marriage with
 14 a priest, minister, rabbi, clerk of the Religious Society of
 15 Friends, clergyman of any religious sect, or marriage
 16 counselor, and that the discussion included a discussion of the
 17 obligation to seek marital counseling in times of marital
 18 difficulties and the exclusive grounds for obtaining a judgment
 19 of legal separation or for legally dissolving a covenant
 20 marriage.

21 (3) A notarized attestation, signed by the counselor and
 22 attached to or included in the parties' affidavit, acknowledging
 23 that the counselor provided to the parties the informational
 24 pamphlet "Covenant Marriage Law" developed by the state
 25 department of health.

26 (b) The recitation required under subsection (a)(1) shall be
 27 prepared in duplicate originals, one (1) of which shall be retained
 28 by the parties and the other of which shall be filed as determined
 29 under subsection (c).

30 (c) The documents required under subsection (a) shall be filed
 31 with the clerk of the circuit court:

32 (1) in which the couple's marriage license is filed, if the couple
 33 was married in Indiana; or

34 (2) in the county where the couple is domiciled, if the couple
 35 was married outside Indiana.

36 (d) If the couple is married outside Indiana, the documents
 37 required under subsection (a) must be accompanied by a certified
 38 copy of the couple's marriage certificate.

39 (e) Upon receipt of a declaration designating a marriage as a
 40 covenant marriage under this section, the clerk of the circuit court
 41 shall make a notation on the marriage certificate of the declaration
 42 and attach a copy of the declaration to the certificate.

43 SECTION 6. IC 31-15-1-2 IS AMENDED TO READ AS
 44 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The purposes
 45 and policies of this article are as follows:

46 (1) To abolish the existing grounds for absolute and limited divorce
 47 and to provide as the basis for dissolution of marriage:

48 (A) irretrievable breakdown of the marriage;

49 (B) the conviction of either party, subsequent to the marriage, of
 50 a felony;

~~(C)~~ impotence existing at the time of the marriage; and
~~(D)~~ incurable insanity of either party for a period of at least two
~~(2)~~ years.

~~(2)~~ (1) To provide for the appropriate procedures for the dissolution
of marriage.

~~(3)~~ (2) To provide for the disposition of property, child support,
and child custody.

~~(4)~~ (3) To provide for separation agreements.

~~(5)~~ (4) To provide for a temporary legal separation.

SECTION 7. IC 31-15-2-3 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) Except as
provided in subsection (b),** dissolution of marriage shall be decreed
upon a finding by a court of one (1) of the following grounds and no
other ground:

(1) Irretrievable breakdown of the marriage.

(2) The conviction of either of the parties, subsequent to the
marriage, of a felony.

(3) Impotence existing at the time of the marriage.

(4) Incurable insanity of either party for a period of at least two (2)
years.

**(b) Dissolution of a marriage declared to be a covenant marriage
under IC 31-11-4.5 shall be granted only upon a finding by a court
of one (1) of the following grounds:**

(1) The nonpetitioning spouse has:

(A) committed adultery;

**(B) committed a felony and has been sentenced to death or
life imprisonment without the possibility of parole;**

**(C) abandoned the marital residence for at least one (1) year
and refuses to return; or**

**(D) physically or sexually abused the petitioning spouse or
any child.**

**(2) The spouses have been living separate and apart
continuously without reconciliation for at least:**

(A) two (2) years; or

**(B) one (1) year from the date a judgment of legal separation
was signed.**

SECTION 8. IC 31-15-2-5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A petition for
dissolution of marriage must:

(1) be verified; and

(2) set forth the following:

(A) The residence of each party and the length of residence in the
state and county.

(B) The date of the marriage.

(C) The date on which the parties separated.

(D) The name, age, and address of:

(i) any living child less than twenty-one (21) years of age; and

(ii) any incapacitated child;

of the marriage and whether the wife is pregnant.

(E) The grounds for dissolution of the marriage.

(F) The relief sought.

(G) If applicable, a statement that the marriage has been declared a covenant marriage.

SECTION 9. IC 31-15-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A proceeding for legal separation is commenced by the filing of a petition entitled, "In Re the legal separation of _____ and _____". The petition must:

(1) be verified; and

(2) set forth the following:

(A) The residence of each party and the length of residence in the state and county.

(B) The date of the marriage.

(C) The date on which the parties separated.

(D) The names, ages, and addresses of:

(i) any living child less than twenty-one (21) years of age; and

(ii) any incapacitated child;

of the marriage and whether the wife is pregnant.

(E) The grounds for legal separation.

(F) The relief sought.

(G) If applicable, a statement that the marriage has been declared a covenant marriage.

SECTION 10. IC 31-15-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a) Except as provided in subsection (b),** in an action for legal separation under section 2 of this chapter, the court may grant a decree for a separation of the parties to the marriage for a period not to exceed one (1) year if the court finds that:

(1) conditions in or circumstances of the marriage make it currently intolerable for both parties to live together;

(2) the marriage should be maintained; and

(3) neither party has filed a petition or counter petition for dissolution of marriage under IC 31-15-2 (or IC 31-1-11.5 before its repeal).

(b) A court may grant a decree for a legal separation of the parties to a covenant marriage for a period not to exceed one (1) year if the court finds that:

(1) the nonpetitioning spouse has:

(A) committed adultery;

(B) committed a felony and has been sentenced to death or life imprisonment without the possibility of parole;

(C) abandoned the marital residence for at least one (1) year and refuses to return; or

(D) physically or sexually abused the petitioning spouse or any child;

(2) the spouses have been living separate and apart continuously without reconciliation for at least two (2) years; or

(3) the nonpetitioning spouse has exhibited habitual intemperance, excesses, cruel treatment, or outrages of such a

1 **nature as to render the parties' continued living together**
 2 **unsupportable.**

3 SECTION 11. IC 31-15-4-9 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The court may
 5 require the parties to seek counseling for themselves or for a child of
 6 the parties under such terms and conditions that the court considers
 7 appropriate if:

8 (1) either party makes a motion for counseling in an effort to
 9 improve conditions of their marriage;

10 (2) a party, the child of the parties, the child's guardian ad litem or
 11 court appointed special advocate, or the court makes a motion for
 12 counseling for the child; or

13 (3) the court makes a motion for counseling for parties who:

14 (A) are the parents of a child less than eighteen (18) years of age;

15 **or**

16 **(B) have declared the marriage to be a covenant marriage.**

17 SECTION 12. [EFFECTIVE UPON PASSAGE] (a) **The state**
 18 **department of health shall develop, before July 1, 2006, an**
 19 **informational pamphlet entitled "Covenant Marriage Law", as**
 20 **provided under IC 31-11-4-18, as amended by this act, that outlines**
 21 **in sufficient detail the consequences of entering into a covenant**
 22 **marriage. The state department of health shall make this**
 23 **informational pamphlet available upon request to any priest,**
 24 **minister, rabbi, clerk of the Religious Society of Friends, clergyman**
 25 **of any religious sect, or marriage counselor who provides marriage**
 26 **counseling as provided for by this act.**

27 **(b) This SECTION expires December 31, 2006.**

28 SECTION 13. **An emergency is declared for this act.**

(Reference is to SB 19 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

GARTON, Chairperson